

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Claims 1, 3-9, and 11-16, and 18-35 remain pending in the present application. Claims 2, 10, and 17 were previously cancelled. Claims 3, 4, 11, 12, 18-21, 24, 25, 33, and 34 have been withdrawn from consideration.

The specification has been amended above to correct a minor typographical error. Accordingly, applicant respectfully requests that the above amendment to the specification be approved.

Claim 16 stands rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 5,313,945 to Friedlander (“the ‘945 patent”). In addition, claims 1, 5-9, 13-16, 22, 23, 26-32, and 35 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,398,739 to Sullivan et al. (“the ‘739 patent”) in view the ‘945 patent. Applicant respectfully traverses these rejections for the reasons presented below.

The presently pending independent claims have been amended above to clarify that the cancellation energy is provided over an area that is *outside the housing* of the blower or pressure generator, i.e., the device making the noise. As a result, the cancellation frequency energy reduces acoustic noise resulting from operation of the blower, for example, even for a person located outside the medical device. In an exemplary embodiment of the present invention, the blower is a small beside device that generates a flow of gas for delivery to the patient while he or she is asleep to treat sleep apnea. In this context, it is beneficial for the user, as well as the bed partner of the use, to perceive as little noise as possible from the operation of the pressure generating system. For most people, the less noise in the sleeping environment, the better they will sleep. The present invention seeks to minimize the noise perceived by the patient and patient’s bed partner, by broadcasting the cancellation frequency outside the confines of the medical device, e.g., in the general vicinity of the medical device. Applicant submits that the ‘945 patent does not teach or suggest this feature of the present invention.

The '945 patent is directed to an MRI device in which the user lies on a table 2 located within a permanent magnet 3 so that the user is within the medical device. A shielding chamber 6 is defined around the permanent magnet. At the very least, permanent magnet 3 defines the housing for the MRI device, and at the most, shielding chamber 6 defines the housing for the MRI device.

The Examiner correctly notes that the '945 patent teaches reducing the noise experienced by the user of the MRI device by providing noise cancellation to the ears of the user. This can be done via headphones, or by other means. For example, column 5, lines 6-16, of the '945 patent appears to teach using transmitting devices mounting within permanent magnet 3 near table 2. Column 5, lines 6-16, of the '945 patent, is reproduced below for the Examiner's convenience.

Although the preferred illustrated embodiments include headsets with ear coupling means that cup over the patients ears, embodiments are also contemplated wherein the magnetic resonance unit is outfitted with permanently fixed supports for the hollow tubes for detecting the unwanted sound to be cancelled and for transmitting the counternoise cancelling sound waves. These tubes can be held in a predetermined position adjacent the table 2, with adjustment provisions being provided to position the same for differently shaped heads

Applicant submits that this teaching, at best, teaches providing cancellation energy to the user who is located within the MRI device housing. It does not, however, teach the concept of providing cancellation energy to locations outside the housing.

Applicant further submits that a person of ordinary skill in the art would not consider it obvious to provide cancellation frequencies to locations outside the MRI housing because, in practice, the MRI operators are not locate near the MRI devices, but are in adjoining rooms. This is due to the high magnetic fields in the room where the MRI device is located. Thus, there is no need, i.e., no motivation, to provide sound reduction to locations outside the MRI housing. In addition, the use of cancellation energy for noise reduction is very directional specific. For example, providing a cancellation energy to the user in the MRI device does not necessarily result in noise cancellation outside the MRI device housing. Thus, the mere use of

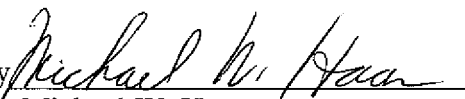
noise cancellation within the MRI device of the '945 patent does not inherently provide noise cancellation outside the MRI device housing, and no motivation exists to extend the noise cancellation zone to include areas outside the MRI device housing because there is no practical benefit to doing so with conventional MRI devices.

For the reasons presented above, applicant respectfully submits that independent claims 1, 9, 16, 22, and 31 are not anticipated or rendered obvious by the cited references. In addition, claims 5-8, 13-15, 23, 26-30, 32, and 35 are also not anticipated or rendered obvious due to their dependency from independent claims 1, 9, 16, 22, or 31. Accordingly, applicant respectfully requests that the above rejection of claims 1, 5-9, 13-16, 22, 23, 26-32, and 35 be withdrawn.

It should be noted that the applicant has not specifically addressed each rejection of the dependent claims. Any rejection of a dependent claim not specifically addressed is not to be construed as an admission by the application of the correctness of that rejection. Rather, the applicant believes that the independent claims are patentably distinguishable over the cited references for the reasons noted above, so that the rejection of the dependent claims need not be addressed at this time. Applicant reserves the right to address the rejection of any dependent claim at a later time should that become warranted.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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Note: The Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 50-0558.